

The 23rd August, 1982

No. 9(1)82-6 Lab./7260.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s Industrial Cables India Ltd., Lal Chand Nagar, Kila Zafargarh, (Jind):—

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No 21 of 1980

between

SHRI SHAMSHER SINGH, WORKMAN AND THE MANAGEMENT OF M/S INDUSTRIAL
CABLES INDIA LTD., LAL CHAND NAGAR, KILA ZAFARGARH (JIND)

Present:—

Shri D. P. Pathic along with the workman.

Shri C. M. Lall and Shri B. S. Surjewala for the management.

AWARD

This reference has been referred to this Court by the Hon'ble Governor,—vide his order No. ID/KNL/3-79/5260, dated 29th January, 1980, under section 10(i)(c) of the I. D. Act for adjudication of the dispute existing between Shri Shamsher Singh, workman and the management of M/s Industrial Cables India Ltd. Lal Chand Nagar, Kila Zafargarh. The term of the reference was :—

Whether the termination of services of Shri Shamsher Singh was justified and in order ? If not, to what relief is he entitled ?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance, filed their respective pleadings and the only issue as under was arose out of the pleadings of the parties :—

Whether the termination of the services of the workman was justified and in order ? If not to what relief is he entitled ?

The management examined Shri Hari Kesh, Senior Time Keeper and Shri B. S. Surjewala as their witnesses and closed their case while tendering the photocopy of the extract of the despatch register dated 24th September, 1979. The workman examined himself as his only witness and closed his case. I heard the learned representatives of the parties and decide the issue as under :—

Issue No. 1 :

MW-1 Shri Hari Kesh deposed that he prepared the absence record of the workman for the months of April, May, July, 1979 from the attendance register which bears his signature and is marked Ex. MW-1/1. The workman remained absent from 12th September, 1979 to 21st September 1979 continuously and the information regarding this absence was sent to the management,—vide Ex. MW-1/2. This report was prepared by him from the attendance record. No leave application or medical certificate was received in the time office from the workman. Under the clause D of Order 20 of the Certified Standing Order, it was provided that any employee remaining absent without any intimation and without sanctioned leave loses his lien on the job. He stated in his cross-examination that the workman attended his duties prior to 12th September, 1979 but he was not aware whether or not he received his pay for the month of September, 1979. He further gave out that no workman was paid his full and final dues unless and until he submits his clearance chit. The name of the workman was struck off on 22nd September, 1979. The copies of the Standing Order has been kept in the time office and the English version was with him in the file. He denied the suggestion as incorrect that Ex. MW-1/1 and MW-1/2 were prepared on that very day, i. e., on 1st December, 1980. The witness further stated that he was not aware whether any letter or charge-sheet was given to the workman before 21st September, 1979 or afterwards and if any enquiry was conducted or not. He further stated that no intimation of the illness of the workman was received by him either before or after 11th October, 1979, or till the day and he denied as incorrect that the workman reached the time office on 3rd October, 1979 and he was turned out of the office by giving pushes to him.

MW-2 deposed that the workman remained absent continuously from 12th September, 1979 to 22nd September, 1979 and he lost his lien on the service under clause 20(D) of the Certified Standing Order of the company. He further deposed that Ex. MW-1/2 was issued under the signature of the Factory Manager Shri B. D. Gulati whose signatures he recognised and who has retired in January, 1981. *Vide* Ex. MW-1/2 the name of the workman was struck off from the rolls. The workman was previously issued letter Ex. MW-2/3 advising him to make amends, the same was received by him while signing in circle 'A'. MW-2 denied the suggestion as incorrect that workman worked upto 22nd September, 1979 and was not ill from 12th September, 1979 to 22nd September, 1979. He also denied the suggestion as incorrect that the workman submitted his medical certificate from Shri Virender Kumar Chawla upto 1st October, 1979.

The workman has deposed that he got ill on 12th September, 1979 and sent the medical certificate the duplicate of which is Ex. WW-1/1 by registered post. The postal receipt was Ex. WW-1/2 and the management did not allow him duty on 3rd October, 1979 when he reported for duty with the fitness certificate. He was not served with notice or chargesheet nor his accounts were settled. The workman denied the suggestion as incorrect that Ex. WW-1/1 was a false certificate and he was never under the treatment of doctor concerned. The workman further stated in his cross-examination that he did not send the certificate accompanied with acknowledgement due and he has written the full address on the registered envelop Personnel Officer, Industrial Cables (India) Ltd., Kila Zafargarh, District Jind. In the receipt Ex. WW-1/2 Kila Zafargarh was not there. He further stated that he fell ill in the month of December, 1978 and at that time he sent the medical certificate of the same doctor Virender Kumar Chawla by registered post from Rohtak and he denied the suggestion as incorrect that Exhibit WW-1/2 was the same,—*vide* which he sent the medical certificate in December, 78. He was not aware that on which date he was issued the medical certificate and on which date he sent the same to the management. He admitted as correct that his name was struck off from the rolls on previous occasions also and he was taken on duty after he produced the medical certificate of illness. He also admitted as correct that he received a letter, dated 28th July, 1979 for remaining absent and for making improvement in him. He was not aware whether there was any clause in the Certified Standing Order that after remaining absent for 10 days or more continuously, the right to remain in service was lost.

The management had pleaded that the workman lost his lien on the job by remaining continuously absent for more than 10 days from 12th September, 1979 to 22nd September, 1979 under clause 20(D) of the Certified Standing Order and the management has further pleaded that they had not terminated the services of the workman and it was the act of the workman by which his services were terminated. The management has produced evidence that they had not received any intimation from the workman nor any medical certificate was received by them. The management has also proved that the workman was issued a letter dated 28th July, 1979 for absence for the months of April, May, and July, 1979 which was duly received by the workman, advising him to shun the tendency of remaining absent. The workman has produced the duplicate medical certificate Ex. WW-1/1 which is dated 8th March, 1981, but it does not disclose as to on which date the original medical certificate was issued. The postal receipt marked Ex. WW-1/2 also does not show the date and the workman could also not tell as to on which date the medical certificate was posted. It has also been admitted by the workman that he fell ill in December, 1978 also and he sent the medical certificate from the same doctor,—*vide* registered post at that time also. The management has suggested to him that the receipt Ex. WW-1/2 was for the medical certificate sent in December, 1978 and not for the period from 12th September, 1979 to 1st October, 1979. Both of these documents are, in my opinion false documents as the duplicate certificate Ex. WW-1/1 does not bear the date on which the original was issued and it is very likely that the receipt from the postal authority is for the medical certificate which was sent previously in December, 1978. He has further admitted that on submission of medical certificate in the past he was taken back on duty when his name was struck off on account of remaining absent. The workman has nowhere pleaded that the management was annoyed and revengeful with him and as such wanted to get rid of him. The workman has not stated even a single word while he examined himself as his witness if he was an active member of the union and the management terminated his services on account of his trade union activities. It is, therefore, established that the workman remained wilfully absent from 12th September, 1979 to 21st September, 1979 and not sick as alleged by the workman. The workman has further stated that he had stomach trouble while the medical certificate declared that he was suffering from fever. For such like discrepancies in the evidence of the workman his case fails. The workman representative has further argued that the case of continuous absence comes under the heading misconduct and as the management neither served notice nor issued the chargesheet and nor any enquiry was held providing the workman an opportunity being heard. The order of termination he further argued was inviolation of principles of natural justice and as such cannot be upheld. On the other hand the management representative has argued that where Certified Standing Order provides for automatic termination of service in the event of the employee remaining continuously absent for the period provided in the Standing Order such automatic termination is the result of the conduct of the workman and not a result of an order of discharge, termination or dismissal by the management. In such cases he argued that there was no need for any enquiry under any other clause of the Standing Order treating the absence from duty as misconduct. It was

not incumbent on the management to take recourse to the Standing Orders". Providing for disciplinary proceedings for such absence on the part of any employee. Order 20 clause D of the Certified Standing Orders provide as under :—

"If the workman remains absent without sanctioned leave or beyond the period of leave originally granted or subsequently extended he shall lose his lien on his appointment unless he returned within 10 days of the commencement of the absence or the expiry of the leave."

It is proved that the workman remained continuously absent from 12th September, 1979 to 21st September, 1979, both days inclusive meaning thereby that the workman remained absent for 10 days. The workman lost lien on his appointment under the above clause of the Standing Orders. The learned representative of the management has drawn my attention towards the decisions appearing in 1979 I LIN page 610 (Madras High Court), 1967-II LLJ page 883 (Supreme Court) and 1963 II LLJ page 638 (Supreme Court) in support of above contention. Relying on these judgments I hold that the services of the workman were automatically terminated as provided in the Certified Standing Orders on his remaining continuously absent for 10 days and it is not incumbent on the management to take recourse to other clause of the Standing Orders providing for disciplinary proceedings by treating the absence from duty as misconduct. On the basis of the above discussion I give my award that the termination of the workman is justified and in order. The workman is not entitled to any relief. The reference is answered and returned accordingly.

Dated the 7th July, 1982.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court Haryana, Rohtak.

Endorsement No. 1672, dated 9th July, 1982

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment, Departments, Chandigarh as required under section 15 of the I. D. Act, 1947.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court Haryana, Rohtak.

No. 9(1)-82-6Lab./7346.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s The Indian Aluminium Cables Ltd., 12/1 Mathura Road, Faridabad:—

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD

Reference No. 92 of 1981

between

SHRI KISHAN CHAND TYAGI, WORKMAN AND THE RESPONDENT MANAGEMENT OF
M/S THE INDIAN ALUMINIUM CABLES LTD., 12/1, MATHURA ROAD FARIDABAD

Present.—

Shri M. K. Bhandari, for the Workman.

Shri K. P. Aggarwal, for the management.

AWARD

This reference No. 92 of 1982 has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/ED/64/82/21960, dated 13th May, 1982, under section 10 (i) (c) of the Industrial Disputes Act, 1947, existing between Shri Kishan Chand Tyagi, workman and the respondent management of M/s The Indian Aluminium Cables Ltd., 12/1 Mathura Road, Faridabad. The terms of the reference was :—

Whether the termination of service of Shri Kishan Chand Tyagi, was justified and in order ? If not, to what relief is he entitled?

After receiving this reference, notices were sent to the parties. The parties appeared. On 18th June, 1982 the representative of the management made a statement in this court that the workman had settled his case with the management mutually and also filed the copy of settlement under section 18(I) of the Industrial Dispute Act, 1947 which is Ex. M-1. According to the settlement Ex. M-1, the workman also received a sum of Rs 2,500 in full and final settlement of his claims or dispute including the right of re-instatement or re-employment. He also filed the copy of receipt voucher is Ex. M-2. He further stated that there is no dispute between the parties. This statement was duly admitted by the representative of the workman.

In the light of the above statement of the parties, I hold that the workman had settled his case with the management and there is no dispute between the parties. No orders as to costs. I give my award accordingly.

Dated, the 1st July, 1982.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 1556, dated the 14th July, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the abovesaid award may please be acknowledged within week's time.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 2nd September, 1982

No. 9(1)82-6Lab./7905.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s FAUJI METAL INDUSTRIES, DURGA GARDEN JAGADHRI.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 266/1981

between

SHRI KULDIP KUMAR WORKMAN AND THE MANAGEMENT OF M/S FAUJI
METAL INDUSTRIES, DURGA GARDEN JAGADHRI

Present.—

Shri Surender Kumar, for the workman.

Nemo, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Kuldip Kumar and the management of M/s. Fauji Metal Industrial, Durga Garden Jagadhri, by Order No. ID/75/81/37979, dated 18th August, 1981, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of service of Shri Kuldip Kumar was justified and in order? If not, to what relief is he entitled.

Notices of the reference were sent to the parties. The workman was present but the management did not appear despite service. Therefore, the case was fixed for the *ex parte* evidence of the workman. He was given many opportunities to lead his evidence which could not be produced by the representative. In view of the above, the evidence of the workman was closed and presumed that the workman was not interested to pursue his case. Therefore, I pass my award that the workman was not entitled to any relief.

Dated the 24th July, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 812, dated 27th July, 1982.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab./7909.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Refrigeration & Accessories Limited, 20/6 Mile Stone Mathura Road, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD.

Reference No. 169/82

between

SHRI V. T. RAJAN, WORKMAN AND THE MANAGEMENT OF M/S REFRIGERATION &
ACCESSORIES LTD., 20/6 MILE STONE MATHURA ROAD, FARIDABAD.

Present.—

Shri K. P. Agrawal. for the management.

Nemo, for the workman.

The State Government of Haryana referred the following dispute between the workman Shri V. T. Rajan and the management of M/s Refrigeration & Accessories Ltd., 20/6 Mile Stone Mathura Road, Faridabad, by order No. ID/FD/29/82/21425, dated 11th May, 1982, to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of service of Shri V. T. Rajan was justified and in order? If not, to what relief is he entitled?

Notices of reference were sent to the parties. The management was present but the workman did not appear despite service. The representative of the management made a statement that the workman had received a sum of Rs. 2200/- in settlement of his dispute and all other claims. He filed copies of receipt Ex.M-1 and copy of application for sending the no dispute award Ex. M-2.

In view of the above, I pass my award that the dispute had been mutually settled by parties and there was no dispute between the parties.

The 24th July, 1982

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 816, dated 27th July, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.